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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,426	07/13/2004	Javier Francisco Aprea	NL 020026	7432

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER	
SAINT CYR, LEONARD	

ART UNIT	PAPER NUMBER
2626	

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02/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/501,426

Applicant(s)

APREA ET AL.

Examiner

Leonard Saint-Cyr

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 - 16 are rejected to non-statutory subject matter. Schemes (programming language) claimed are neither computer components nor statutory process, as they are not "acts" being performed. Such claimed schemes do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized.

Thus, since Scheme (computer program) is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process, and non-statutory functional descriptive material. Accordingly, the subject matter of claims 1 - 16 is held to be non-statutory subject matter.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 17 – 21 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The applicant omits, means for producing audio frames, and means for generating a mean effective audio frame length, which are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1 – 4, 13 – 17, and 19 – 21 are rejected under 35 U.S.C. 102(a) as being anticipated by Fielder et al., (US Patent 6,226,608).

As per claims 1, and 17, Fielder et al., teach an audio encoding scheme for a stream that carries audio and video data, which scheme has a mean effective audio frame length {overscore (F)} that equals the video frame length $1/f_{sub.V}$ over an integral number M video frames, by provision of audio frames variable in length F in a defined sequence F(j) at encoding ("effective maximum length"; col.5, lines 20 – 24; Abstract, line 9; col.15, lines 1 – 5).

As per claim 2, Fielder et al., further disclose the frame length F is adjusted by varying an overlap O between successive audio frames ("overlapping segments having lengths that vary..."; Abstract, line 9; col.15, lines 1 – 5).

As per claim 3, Fielder et al., further disclose that the value $F(j)$ repeats periodically on j , the periodicity of $F(j)$ defining a sequence of frames ("sequence of overlapping segments"; col.6, lines 1 – 5).

As per claim 4, Fielder et al., further disclose that the encoding scheme having M video and N audio frames per sequence, each audio frame being composed of k blocks of t samples each (col.12, lines 48 – 51).

As per claims 13, and 14, Fielder et al., teach An audio encoding scheme for a stream that encodes audio and video data in which scheme audio samples of N quasi video-matched frames are encoded in frames with a semi-variable overlap whereby the effective length of the audio frames coincides with the length of a sequence of M video frames, where M and N are positive integers ("overlapping segments having lengths that vary..."; col.5, lines 20 – 24, and 30 – 35; col.15, lines 1 – 5).

As per claim 15, Fielder et al., further disclose audio frames, each of which is tagged to indicate the size of the audio frame (N parameter pertains ...segment length"; col.17, lines 4 – 6; col.11, lines 26, and 27).

As per claim 16, Fielder et al., further disclose audio frames, each block of which is tagged to indicate whether or not the block is a redundant block ("cyclical redundancy check"; col.29, line 6).

As per claim 19, Fielder et al., teach an audio decoder for decoding a stream that encodes audio and video data, which decoder calculates an expected effective frame length of an incoming frame, adjusts the actual length of the incoming frame to make it equal to the expected frame length, determines whether any block within a received frame is a redundant block or a non-redundant block, mapping the non-redundant blocks onto sub-band samples ("effective maximum length... cyclical redundancy check"; col.5, lines 20 – 24; Abstract, lines 9 - 11; col.15, lines 1 – 5; col.29, line 6).

As per claim 20, Fielder et al., further disclose modifying the overlap status of blocks in the data stream by application of one or more of a set of block operators to each block ("editing operations like splicing"; col.5, lines 27 – 29).

As per claim 21, Fielder et al., further disclose that the set of operators includes a SHIFT, an operator that is a combination of both DROP and APPEND operators ("shifting to a shorter segment length"; col.5, line 8).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO- 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard Saint-Cyr whose telephone number is (571) 272-4247. The examiner can normally be reached on Mon- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LS
02/11/08


RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER